

BALL JANIK LLP

A T T O R N E Y S

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

KARL MORELL



ENTERED
Office of Proceedings

DEC 17 2010

Part of
Public Record

December 17, 2010

BY HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

228490

Re: STB Finance Docket No. 35457, Wichita, Tillman & Jackson
Railway Company – Acquisition Exemption – Oklahoma
Department of Transportation

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.41 and a check covering the \$1,800 filing fee. Also enclosed is a Disc containing the Notice and Summary.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions, please contact me.

FILED

DEC 17 2010

**SURFACE
TRANSPORTATION BOARD**

Sincerely yours,

Karl Morell

Enclosures

FEE RECEIVED

DEC 17 2010

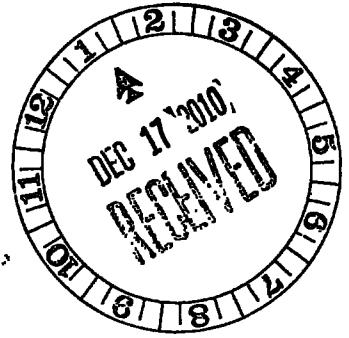
**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35457

WICHITA, TILLMAN & JACKSON RAILWAY COMPANY
--ACQUISITION EXEMPTION--
OKLAHOMA DEPARTMENT OF TRANSPORTATION

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.



KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
WICHITA, TILLMAN & JACKSON
RAILWAY COMPANY

Dated: December 17, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35457

WICHITA, TILLMAN & JACKSON RAILWAY COMPANY
--ACQUISITION EXEMPTION--
OKLAHOMA DEPARTMENT OF TRANSPORTATION

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.

Wichita, Tillman & Jackson Railway Company ("WTJR"), a Class III rail carrier, files this Verified Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E--Exempt Transactions Under 49 U.S.C. 10902, to permit WTJR to acquire approximately 61.02 miles of rail line currently owned by the Oklahoma Department of Transportation ("ODOT") in Oklahoma (the "Western Branch"). WTJR has been leasing and operating the Western Branch since 1991. *See* Finance Docket No. 31788, *Wichita, Tillman & Jackson Railway Company – Lease and Operation Exemption – State of Oklahoma* (not printed), served January 8, 1991.

On December 10, 2010, WTJR filed with the Surface Transportation Board ("Board") a Verified Notice of Exemption to renew its lease of the Western Branch. *See* STB Finance Docket No. 35451, *Wichita, Tillman & Jackson Railway Company – Lease Renewal Exemption – Oklahoma Department of Transportation*. The 1991 Track Lease and Operating Agreement grants WTJR an option to purchase the Western Branch upon the payment or prepayment of a

specified aggregate rental amount and the payment of the specified purchase price. Due to actions and inactions of others, WTJR has elected to exercise the purchase option. The filing of the Notice of Exemption in this proceeding does not render moot the lease renewal Notice of Exemption in STB Finance Docket No. 35451, since WTJR will not be able to consummate the acquisition before the current term of the lease ends.

In support of this Notice of Exemption, WTJR submits the following information as required by 49 C.F.R. § 1150.43:

(a) Full name and address of applicant:

Wichita, Tillman & Jackson Railway Company
6100 Southwest Blvd., Suite 320
Fort Worth, Texas 76109

(b) Applicant's Representative:

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

(c) Statement of Agreement:

The 1991 Track Lease and Operating Agreement obligates ODOT to transfer all of ODOT's right, title and interest in the Western Branch to WTJR by quitclaim deed upon the payment or prepayment of a specified aggregate rental amount and the payment of the specified purchase price. Yesterday, WTJR gave ODOT notice of WTJR's decision to exercise the option

and paid in full the aggregate rental and purchase price. Other documents necessary for the transfer of the Western Branch will be prepared and executed in the near future.

(d) The operator of the property:

WTJR will be the operator of the Western Branch.

(e) Summary of proposed transaction:

(1) The name and address of the entity transferring the subject property is:

Oklahoma Department of Transportation
200 Northeast 21st Street, Room 3D-6
Oklahoma City, OK 73105

(2) The proposed time schedule:

WTJR expects to consummate the proposed lease extension on or shortly after January 16, 2011.

(3) Mileposts of the subject property:

The Western Branch is located between Milepost 17.54, near the Texas-Oklahoma State line near Burkburnett, TX, and Milepost 78.56, at Altus, OK.

(4) Total route miles:

The length of the rail line being acquired is approximately 61.02 miles.

(f) Map:

A map of the Western Branch is attached as Exhibit A.

(g) Certificate of compliance:

WTJR hereby certifies that WTJR's projected revenues as a result of this transaction will not result in WTJR becoming a Class II or Class I rail carrier. WTJR further certifies that its projected annual rail freight revenues from operation of the Western Branch, when combined with WTJR's projected revenues from other rail freight operations, will not exceed \$5 million. Consequently, the requirements of 49 C.F.R. § 1150.42(e) do not apply to this transaction.

(h) Interchange commitment:

The quitclaim deed and other documents transferring title will not contain a provision that would limit future interchange with a third-party connecting carrier.

A caption summary, as required by 49 C.F.R. § 1150.44, is attached.

ENVIRONMENTAL AND HISTORIC IMPACTS

WTJR is acquiring the Western Branch for continued rail operations. Further Surface Transportation Board ("Board") approval is required for WTJR to abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

WTJR's acquisition of the Western Branch will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent

of the average daily traffic or 50 vehicles a day. WTJR's acquisition of the Western Branch will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

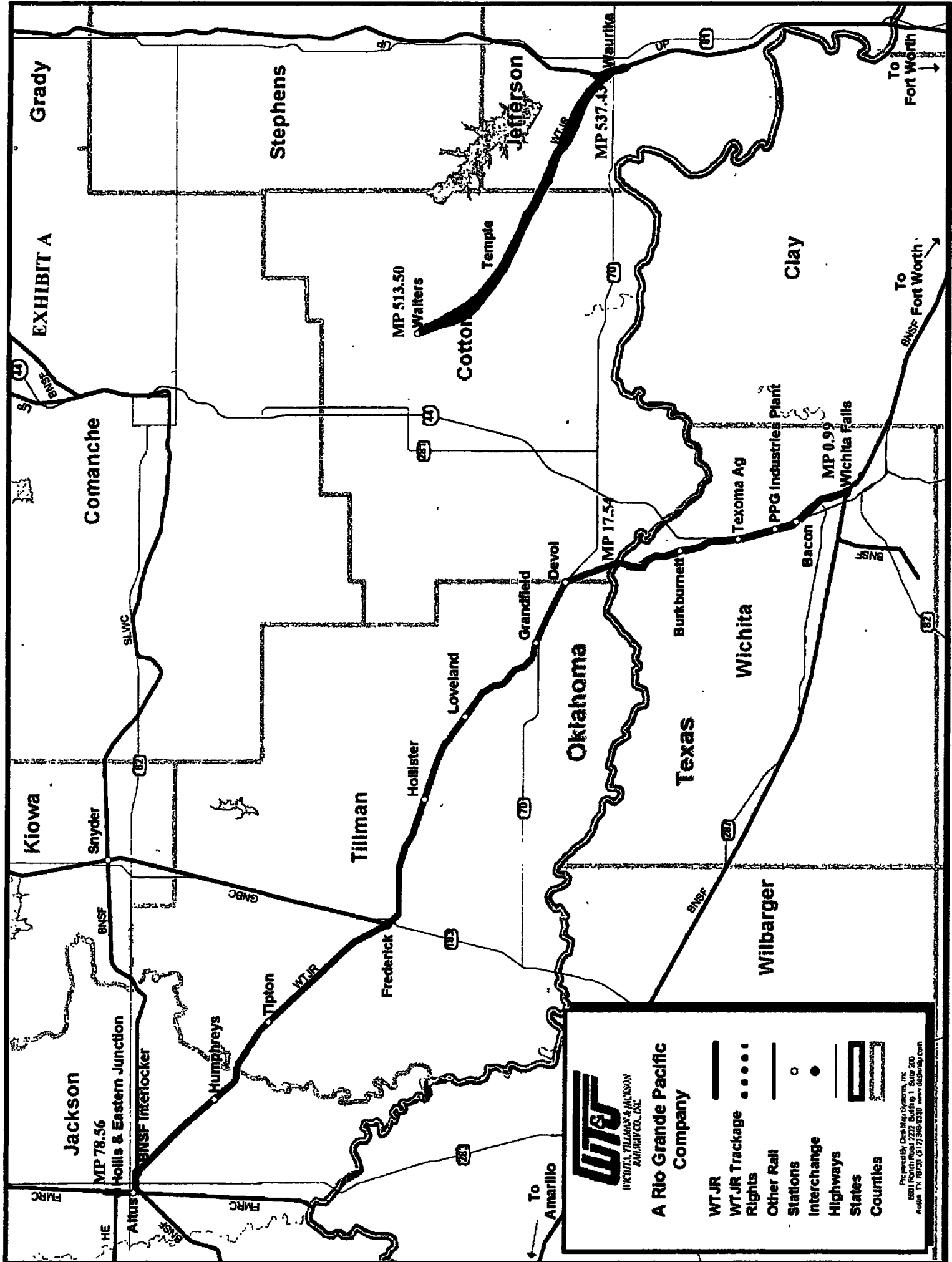
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Karl Morell', written over a horizontal line.

KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

Attorney for:
WICHITA, TILLMAN & JACKSON
RAILWAY COMPANY

Dated: December 17, 2010



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 35457

**WICHITA, TILLMAN & JACKSON RAILWAY COMPANY
--ACQUISITION EXEMPTION--
OKLAHOMA DEPARTMENT OF TRANSPORTATION**

Wichita, Tillman & Jackson Railway Company ("WTJR"), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire approximately 61.02 miles of rail line owned by the Oklahoma Department of Transportation extending from Milepost 17.54, near the Texas-Oklahoma State line near Burkburnett, TX, to Milepost 78.56, at Altus, OK.

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.



VERIFICATION

STATE OF TEXAS
COUNTY OF TARRANT

)
) **ss.**
)

I, Richard D. Bertel, being duly sworn depose and state that I am Chief Executive Officer of the Wichita, Tillman & Jackson Railway Company, that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.


Richard D. Bertel

SUBSCRIBED AND SWORN TO before me this 16th day of December, 2010, in the County of Tarrant, State of Texas

My Commission Expires: 2-18-11


Notary Public

